

**Jeffrey M. Edelson, OSB # 880407**

JeffEdelson@MarkowitzHerbold.com

**Nathan D. Burcham, OSB #182509**

NathanBurcham@markowitzherbold.com

MARKOWITZ HERBOLD PC

1455 SW Broadway, Suite 1900

Portland, OR 97201

Tel: (503) 295-3085

Fax: (503) 323-9105

**Kelly K. Simon, OSB # 154213**

ksimon@aclu-or.org

AMERICAN CIVIL LIBERTIES UNION

FOUNDATION OF OREGON

PO Box 40585

Portland, OR 97240

Tel: (503) 227-6928

**Nicholas S. Cady, OSB # 113463**

nick@cascwild.org

CASCADIA WILDLANDS

PO Box 10455

Eugene, OR 97440

Tel: (541) 434-1463

Fax: (541) 434-6494

**Elisabeth Holmes, OSB # 120254**

eli@willametteriverkeeper.org

WILLAMETTE RIVERKEEPER

PO Box 293

Eugene, OR 97440

Tel: (541) 870-7722

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

NORTHWEST CENTER FOR  
ALTERNATIVES TO PESTICIDES,  
WILLAMETTE RIVERKEEPER,  
CASCADIA WILDLANDS, NEIGHBORS  
FOR CLEAN AIR, AND 350PDX,

Plaintiffs,

vs.

U.S. DEPARTMENT OF HOMELAND  
SECURITY; ALEJANDRO MAYORKAS, in  
his capacity as Secretary, U.S. Department of  
Homeland Security,

Defendants.

No. 3:20-cv-01816-IM

**SUPPLEMENTAL STANDING  
DECLARATION OF JUNIPER  
SIMONIS, WILLAMETTE  
RIVERKEEPER MEMBER**

I, Juniper Simonis, declare:

1. I am over 18 years of age and reside in Southeast Portland, Oregon. I make this supplemental declaration based on my own personal knowledge, and if called as a witness, I could and would competently testify to the facts herein under oath. As to matters which may reflect a matter of opinion, they reflect my personal opinion and judgment based on my personal experience.

2. I have been a member of Willamette Riverkeeper since 2020.

3. I continue to recreate on and near the Willamette River.

4. I continue to study impacts of federal and local munitions on human and environmental health in Portland.

5. On January 19, 2021, I conducted a press conference to share information with the public information about a chemical in a munition, hexachloroethane smoke (“HC”), that federal agents of the Department of Homeland Security (DHS) have used repeatedly in Portland in connection with Operation Diligent Valor. HC is lethal, known to be a carcinogenic, and causes reproductive harm.

6. DHS agents have exposed me to large amounts of chemical and impact munitions, including HC smoke grenades, on multiple occasions since the filing of this lawsuit, including on January 20, 2021, and January 23, 2021, in the south waterfront neighborhood of Portland.

7. I know the officers who deployed the chemical munitions were DHS agents. I know this based on the uniforms I observed them wearing and based on my observation of the officers coming out of the ICE rental space on Macadam Street. I also know that for the January 20, 2021, and January 23, 2021 events, the Portland Police Bureau has publicly stated that it did not use tear gas on either occasion.

8. On both the January 20, 2021, and January 23, 2021 occasions, I witnessed DHS agents using a weapon colloquially called a “thermal fogger” as depicted in the video at this link: <https://www.youtube.com/watch?app=desktop&v=YU2eSEVuiiw>. Based on my research, this device heats up chemical agents to extremely high temperatures (over 1000 C). I have read

scientific studies that the heating process causes the chemicals to increase in toxicity to human and environmental health.

9. The thermal fogger emissions and residue put off by weapons such as pepper balls are also appearing to linger longer in the air and on surfaces given the increased water present during the current rainy season, as I have personally observed and tested.

10. DHS's repeated use of chemical munitions has caused me to experience a variety of symptoms, including but not limited to, difficulty breathing, skin rashes and irritation, coughing, headaches, and watery eyes. Sometimes I experience symptoms when present in areas hours after munitions were deployed.

11. I continue to conduct personal cleanup efforts after DHS deploys weapons in their purported defense of the ICE rental space on Macadam Street and the Hatfield Courthouse in downtown Portland. I do this to help educate the public about environmental and human health impacts, as well as to prevent additional harm caused by munitions residue, pieces, and chemical substances entering storm drains and river outfalls. As part of my cleanup efforts, I continue to find rubber balls coated in CS, rubber buckshot, pieces of and intact FN303 rounds, gas grenade canisters, unexploded and exploded pepper balls, pepper ball residue, and other munitions fragments on streets, on sidewalks, in stormwater drains, in bioswales, and on the grounds of a play area of an elementary and middle school. The water table of the Willamette River is too high during the current season for me to safely examine culverts. However, based on my observations during the summer and fall and my training in hydrogeology, I believe munitions continue to wash into the Willamette River, including in salmon nesting habitat. I plan to continue clean-up efforts in the Willamette River as soon as the water level permits.

12. On and after January 23, 2021, I conducted cleanup at the Cottonwood School of Civics and Science. During that cleanup, I found a large quantity of munitions, including but not limited to the following: several rubber balls with toxic coating scattered around the playground areas; a CS (*i.e.* tear gas) grenade canister was melted into the roof of the school building; an unexploded weapon was on a sidewalk adjacent to the schools grounds; a canister that I personally witnessed dispensed its contents on the playground. *See, e.g.,* Alissa Azar, *Jungle*

*Gyms and Grenades: Chemical Warfare in Portland and the Lasting Impacts at a Nearby School*, MEDIUM.COM, (January 26, 2021), <https://alissa-azar.medium.com/jungle-gyms-and-grenades-chemical-warfare-in-portland-and-the-lasting-impacts-at-a-nearby-school-76edf33fc5f1> (article includes photographs of me conducting clean-up on January 25, 2021 at the Cottonwood School of Civics and Science); Sergio Olmos, OREGON PUBLIC BROADCASTING, *Portland school worries law enforcement tear gas has soiled playground*, (January 29, 2021, 5:30 AM), <https://www.opb.org/article/2021/01/29/portland-school-tear-gas-playground/>.

13. In the area adjacent to the school, we found additional chemical weapons left behind by DHS, including two unexploded rubber hand ball grenades filled with rubber pellets coated in CS gas, an unexploded CS metal grenade, and over a dozen unexploded pepper balls.

14. Out of concern for the transport of chemicals and munitions from the protests to the Willamette River, I continue to correspond with the City of Portland Bureau of Environmental Services (BES). On January 3rd, I recovered an unspent FN303 round from the stormwater system outside the Justice Center and was instructed by BES to retain it as they were unsure what to do with such an item.

15. On January 27, 2021, BES informed me that BES is not planning additional testing of riot control agents in the stormwater system around the downtown and south waterfront areas of Portland.

16. From the quantity of protest detritus I continue to see, I do not think that DHS has cleaned up after their repeated and continued use of crowd control munitions, and has elected to continue to ignore the environmental and human health impacts of munitions. If the government would clean up the chemicals and protest munitions, or at a minimum disclose what is being used and the harmful effects the chemicals and munitions can have on humans and the environment, then I would not need to continue to physically go out myself, a private citizen, to clean up after them to protect the river and ecosystems that I care about.

17. Without information and analysis by DHS, significant risks to human health and the environment continue to remain unknown to the public. Should Willamette Riverkeeper be unable to enforce the agency's compliance with NEPA, Willamette Riverkeeper will be unable to

effectively address water pollution, harm to aquatic life, and potential impacts to the public, including me, who use the Willamette River for recreation.

18. If DHS had fulfilled or were to fulfill its obligations under NEPA, my interests would be protected. If the agency were to conduct a NEPA analysis, it would identify information allowing me to educate myself and others about the use of chemicals during the Portland protests and the impacts of these chemicals on human health, water quality, aquatic species, and the river ecosystem. The agency's NEPA analysis would also result in a reduction of harm to threatened species and the Willamette River because, as required by NEPA, harm identified through the NEPA process would have to be mitigated.

19. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 12th day of February, 2021.

*s/ Juniper Simonis*

---

Juniper Simonis